



September 18, 2020

Dear Honorable Chair Klick and members of the House Elections Committee,

We write to formally respond to the request for submissions issued by the House Elections Committee, and specifically to address Interim Charge 2: "Make recommendations for establishing best practices for conducting an election during a declared disaster. Examine model legislation and statutes from other states pertaining to voting during a declared disaster when polls are inaccessible."

The ACLU of Texas has communicated with the Secretary of State and the Governor numerous times since March of this year, when COVID-19 changed the reality of our elections. Throughout, our goal has been to identify and encourage the implementation of election practices that allow the most Texans to vote safely. Our letter from July 31 of this year is attached to this written testimony as an appendix.

In every case, our recommendations to address COVID-19 in the short term are also changes to elections that should be implemented long-term. Expanded vote by mail, online registration, drive up voting, and improved curbside voting practices should be utilized in Texas regardless of whether a disaster has been declared. Enacting voting procedures that encourage participation while maintaining voter integrity will prepare us for elections held during disasters because it is by building out online registration or expanded vote by mail that we anticipate and prepare for new and varied challenges facing voters in Texas. We don't have to wait for a declared disaster to ensure our state has the infrastructure in place to ensure all eligible Texans can register and vote.

In our letter to the Secretary of State, we highlighted five important policy changes:

First, we should provide voters with more options of times, days, and locations to vote. This would help protect voters and poll-workers, as it would allow for smaller gatherings in polling places when we are voting during a time when infectious disease is impacting access to the polls.

Second, the State should provide guidance and support including funding, to local election offices to set up additional polling places and curbside voting options to allow for distanced voting. As much as practicable, jurisdictions should avoid consolidating polling places to ensure access for all voters and to prevent crowding at the polls during times of declared disaster because of infectious disease. Additionally, closures should be equitably distributed within the jurisdiction and every effort should be taken to avoid disproportionately impacting communities of color.

Third, the State and counties should ensure polling places stay open and are properly staffed. Poll workers representing diverse age groups should be recruited far ahead of elections and excess workers should be on hand to prevent closures. Local officials should be encouraged to look to expand polling places and curbside voting.



Fourth, Texas should change the way registration is done. Moving to online registration and eliminating deadlines to register would provide Texans important new opportunities to register to vote and participate in our democracy. During a pandemic, it is critical for prospective voters and local voting officials that we reduce unnecessary face-to-face interactions such as in-person voter registration.

Finally, the legislature should take affirmative steps to ensure that all eligible voters are able to cast their ballot by mail.

Along with enacting the recommendations from our July letter, we encourage the state to expand who is eligible to vote by mail. In August, the New York Times reported Texas is one of only 7 states that requires a voter provide a justification other than the current COVID-19 pandemic as a reason to vote by mail.<sup>1</sup> Many states have allowed more widespread use of vote by mail for years and there is almost no evidence of voter fraud. The state of Oregon uses mail in ballots for all elections statewide and has not seen vote integrity issues. Certainly, vote by mail should be expanded in times of a declared disaster to allow first responders and those on the front lines of the disaster to vote by mail. Additionally, when the declared disaster is an infectious disease, those that might be carriers of a disease like COVID-19 should be able to request a mail in ballot, to avoid infecting other voters at the polling place.

We appreciate the committee's careful consideration of these important issues facing Texans today and in the future. Please don't hesitate to reach out if we could provide additional information.

Sincerely,

Matt Simpson  
Senior Political and Advocacy Strategist  
ACLU of Texas

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<sup>1</sup> Where Americans Can Vote by Mail in the 2020 Elections,  
<https://www.nytimes.com/interactive/2020/08/11/us/politics/vote-by-mail-us-states.html>



## **APPENDIX: ACLU of Texas July 31, 2020 Letter to the Secretary of State and Governor**

July 31, 2020

We write to encourage you to do everything in your power to ensure the health and safety of voters as they exercise their civic duty to vote in November. In the weeks following the July 14 runoff Texas has continued to see record numbers of COVID-19 cases. The July 14 runoff elections serve both a model of what can be done well--with significant scaling up for November turn out--and a warning for potential problems heading into the November election.

We commend the state's extension of early voting for the July 14 runoff and the announcement that the Governor will also extend early voting in November. We also applaud the availability of personal protective equipment and extending early voting hours in some counties for the primary runoff election. However, on election day, there were multiple issues that presented a danger to the safe access to voting every eligible voter deserves.

With cases of COVID on the rise and challenges from the primary runoff serving as a warning, Texas must take action now to protect voters. We ask that you take additional actions ahead of the November election to ensure the largest possible participation given the obvious public health concerns. There is sufficient time to prepare for a successful election in spite of COVID-19 if the State and counties act now. As you respond to the COVID-19 pandemic, please consider the ACLU of Texas as a resource in your work to develop a response plan that protects the health, safety, and civil liberties of all Texans.

First, we thank the Governor for committing to allow early voting to start a week early on October 13th. Providing voters with more options of times, days, and locations to vote will help protect voters and poll-workers, as it would allow for smaller gatherings in polling places. We encourage the State to further extend the early voting period to include the weekend directly prior to Election Day. Voters tend to vote in greater concentration closer to Election Day, so having the polls open the weekend before could prove to be a safer way to ensure maximum participation in the general election.

Second, the State should provide guidance and support, including funding, to local election offices to set up additional polling places and curbside voting options to allow for distanced voting. Jurisdictions should avoid consolidating polling places in the November election to prevent crowding at the polls.

Third, we saw closures in Dallas and Bexar counties for the July runoff due to a lack of poll workers. This cannot happen in November. High voter turnout for the primaries is a projection of high voter turnout for the November general election. With this knowledge, the State and counties can start preparing now to ensure polling places stay open and are properly staffed. The state should begin recruiting poll workers now and make sure there are excess workers on hand to prevent closures and look to expand polling place and curbside.



Fourth, the state should eliminate or significantly reduce the 30-day deadline to register before an election. Voters have been told by both the State and local governments not to leave their homes and many places at which voters would normally register--such as DPS locations--were closed for significant periods of time. Eliminating or significantly reducing the registration cutoff would account for these roadblocks to registration, for meaningful participation.

Finally, we urge the Secretary of State and local officials to do everything in your power to ensure that all eligible voters are able to cast their ballot by mail. We saw some cases where eligible voters in retirement homes did not receive their ballots until after Election Day had passed. This is simply unacceptable and results in voter suppression. We highly encourage you to process requests for ballots in a timely manner given the current pandemic and with the knowledge of the already slowed down mailing system.

We appreciate your attention to the voting rights of all Texans and the important work that will be required to keep Texans safe in the upcoming elections. We are happy to meet in person or by phone to discuss how best to protect civil liberties in your COVID-19 response planning. Please contact Erica Sanchez at [esanchez@aclutx.org](mailto:esanchez@aclutx.org) if we can be of service.

Sincerely,

ACLU of Texas